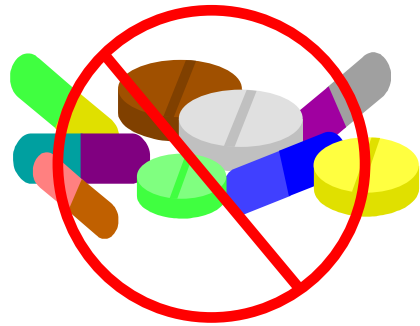


INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS



DRUG-FREE WORKPLACE PROGRAM

Revised 8/3/2006

**THE CITY OF GAINESVILLE AND THE
INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS**

DRUG-FREE WORKPLACE PROGRAM

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1 **IAFF DRUG-FREE WORKPLACE PROGRAM**

2 **I. PURPOSE**

3 As a part of its commitment to safeguard the health of its employees, to provide a
4 safe place for its employees to work, and to promote a drug-free working
5 environment, the City of Gainesville, Florida (City) and the International
6 Association of Fire Fighters, Local 2157 (IAFF) have established this program
7 relating to the use or abuse of alcohol and drugs by its employees/members.
8 This program is intended to conform to the requirements of the Drug-Free
9 Workplace Program under Florida’s Workers’ Compensation Law, Fla. Stat. §
10 440.101-.102, and rules promulgated pursuant thereto. Substance abuse, while
11 at work or otherwise, seriously endangers the safety of employees, as well as the
12 general public, and creates a variety of workplace problems including increased
13 injuries on the job, increased absenteeism, increased health care and benefit
14 costs, increased theft, decreased morale, decreased productivity, and a decline
15 in the quality of products and services provided. This program is established in
16 part to detect users and remove abusers of drugs and alcohol from the
17 workplace, to prevent the use and/or presence of these substances in the
18 workplace, and to assist employees in overcoming any dependence on drugs
19 and/or alcohol in accordance with the following guidelines.

20
21 Florida Statute § 440.101 provides in part that an employee who is injured in the
22 course and scope of his employment and tests positive on a drug or alcohol test
23 may be terminated and shall forfeit his eligibility for medical and indemnity
24 benefits under Florida’s Workers’ Compensation Law. Refusal to take a drug
25 (urine) or alcohol (breath) test will result in the employee forfeiting his/her
26 eligibility for medical and indemnity benefits under Florida’s Workers’
27 Compensation Law and the employee being subject to dismissal. The City group
28 medical plan excludes benefits for job related injuries. Therefore, if Worker’s
29 Compensation benefits are forfeited pursuant to the drug-free workplace
30 program, the employee injured on the job will be without any City-provided
31 medical benefits.

32
33 Certain components of this program involve utilization of additional techniques
34 and procedures. These additional techniques and procedures as well as the
35 determination of the employee groups who will be covered by such, are both
36 justified by, and based upon, federal and state statutes, case law, and regulatory
37 findings related to various public sector and private sector employees working in
38 safety-sensitive and “special risk” positions throughout inter- and intrastate
39 commerce. At such time as regulatory requirements become applicable to IAFF-
40 represented employees, this program will be altered as and if necessary to
41 conform to the specific requirements of the final regulations. Until such time, any
42 additional techniques and procedures shall utilize mechanisms already in use
43 and/or proposed for use by state or federal law and regulation. Prior to altering

1 or amending this program the City will engage in collective bargaining to the
2 extent required by law.

3
4 To the extent that § 440.101-.102, or the implementing rules issued by the
5 Agency for Health Care Administration (Fla. Admin. Code R 59A-24) are
6 amended, or other statutes and rules requiring drug testing are determined to be
7 applicable to IAFF-represented employees, the City's program will be amended,
8 as provided for herein, without the necessity of further general notice. (IIIA).

9
10 The City/IAFF Drug-Free Workplace Program has been prepared so as not to
11 conflict with public policy and, further, not to be discriminatory or abusive. A
12 drug-free workplace should be the goal of every employer in America. Drug and
13 alcohol testing is only one of the several steps that must be taken to achieve this
14 objective. When incorporated into a comprehensive anti-drug effort, testing can
15 go a long way in combating drug and alcohol abuse in the workplace.
16

17 **II. SCOPE**

18
19 All IAFF-represented employees are covered by this program and, as a condition
20 of employment, are required to abide by the terms of this program. Any
21 employee in doubt as to the requirements or procedures applicable to his/her
22 situation may contact the City Human Resources Department for information.
23

24 **III. DRUG-FREE WORKPLACE PROGRAM DISSEMINATION**

25
26 A. The City will give a general one-time notice to all IAFF-represented
27 employees that the City prohibits its employees from illegally or improperly
28 using, possessing, selling, manufacturing, or distributing drugs on its
29 property, or while its employees are at work; that it is against City policy to
30 report to work or to work under the influence of drugs; and that it is a
31 condition of employment to refrain from using nonprescription drugs, or
32 alcohol, on the job, or abusing legal drugs on or off the job such that it
33 affects their job, and that a drug testing program is being implemented. At
34 least sixty (60) days will elapse between the notice and any employee
35 drug testing implemented pursuant to this program.
36

37 B. Prior to testing, all employees or applicants for employment will be given a
38 summary of the Drug-Free Workplace Program, a drug test, a list of local
39 employee assistance programs and a list of local alcohol and drug
40 rehabilitation programs.
41

42 C. A notice of drug testing will be included with all job vacancy
43 announcements for which drug testing is required. A notice of the City's
44 drug testing program will also be posted in appropriate and conspicuous

1 locations on the City's premises and copies of the program will be made
2 available for inspection during regular business hours in the Human
3 Resource Department and each Fire Station.
4

5 **IV. DEFINITIONS**

6
7 The definitions of words and terms as set forth in § 440.02, § 440.102(1), and
8 112.0455 Fla. Stat. and the Agency for Health Care Administration, Drug-Free
9 Workplace standards (Fla. Admin. Code R 59A-24) as may be amended shall
10 apply to the words and phrases used in this program unless the context clearly
11 indicates otherwise. When the phrase "drug and alcohol" testing, use, etc., is
12 used in connection with different testing mechanisms, prohibitions or causes for
13 testing "drug" includes all of the below listed substances except alcohol. "Drug"
14 otherwise has the same meaning as in Section 440.102(1)(c), Fla. Stat., which
15 defines "drug" as follows:
16

- (c) "Drug" means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all of such drugs.

17 18 **V. ALCOHOL USE PROHIBITIONS**

- 19
20 A. The consumption of alcohol on City property or while on duty (during
21 working hours, while at work, etc.) is prohibited and will result in
22 disciplinary action, up to and including dismissal. The prohibition of
23 consumption of alcohol upon City property or on duty does not, however,
24 apply to those assignments, premises, or events at which consumption of
25 alcohol is authorized by management. Such authorization does not
26 encourage, sanction, or authorize any individual to consume alcohol in
27 excess to a point of being intoxicated. Therefore, any employee at an
28 event, who in the sole opinion of the Management becomes intoxicated,
29 must refrain from further consumption of alcohol and, upon request by
30 Management, leave the function. Failure to comply with the request
31 constitutes a violation of the program and will subject the employee to
32 disciplinary action.
33

- 1 B. Off-duty use of alcohol may adversely affect an employee's job
2 performance or adversely affect or threaten to adversely affect other
3 interests of the City, including but not limited to the employee's
4 relationship to his/her job, fellow workers' reputations, or goodwill in the
5 community. Disciplinary action up to and including dismissal may be
6 imposed on this basis.
7
- 8 C. Except as provided herein, the personal possession (i.e., on the person, or
9 in a desk, or locker) of alcohol on City property or during working hours
10 will result in disciplinary action, up to and including dismissal.
11
- 12 D. It is against the City's program and a violation of City policy to report to
13 work or to work under the influence of alcohol.
14
- 15 E. For purposes of implementing the City of Gainesville/IAFF Drug-Free
16 Workplace program, an employee is presumed to be under the influence
17 of alcohol if a breath test shows alcohol usage of 0.04% or greater.
18
- 19 F. An employee who Management has reason to suspect is under the
20 influence of alcohol will be removed immediately from the workplace and
21 will be tested and evaluated by authorized personnel selected by
22 Management, if reasonably available. The City will take further action
23 (i.e., further testing, referral to counseling, and/or disciplinary action)
24 based on medical information, work history, and other relevant factors.
25 The determination of appropriate action in each case rests solely with the
26 City.
27
- 28 G. Failure to pass an alcohol test will result in further testing or disciplinary
29 action, up to and including dismissal.
30
- 31 H. Efforts to tamper with, or refusal to submit to an alcohol test will subject
32 the employee to dismissal.
33
- 34 I. Employees arrested for an alcohol-related incident, as indicated on the
35 arrest report, shall notify, as soon as feasible, but in any event no later
36 than 24 hours after the arrest, the City management representative having
37 direct administrative responsibility for the arrested employee of the arrest
38 if the incident occurs:
39
- 40 1. During working hours, or
 - 41 2. While operating a City vehicle, or
 - 42 3. While operating a personal vehicle on City business.
43
44
45

1 Failure to comply with this subsection will result in disciplinary action up to
2 and including dismissal.

- 3
4 J. Violations of alcohol use prohibitions can subject an employee to
5 disciplinary action up to and including dismissal. Dismissal for a first
6 offense will be considered an appropriate penalty absent mitigating
7 circumstances.
8

9 **VI. DRUG USE PROHIBITIONS**

- 10
11 A. The use, sale, purchase, possession, manufacture, distribution, or
12 dispensation of nonprescription drugs or their metabolites on City property
13 or while at work (while on duty, during working hours, etc.) is a violation of
14 the City's Program and is just cause for immediate dismissal.
15
16 B. Reporting to work, or working, under the influence of nonprescription
17 drugs is a violation of the City's Program and is just cause for immediate
18 dismissal unless the violation is identified solely by the failure of a random
19 drug test as set forth in VI. C. below.
20
21 C. An employee who fails a random urine drug test, will be allowed a one-
22 time opportunity to participate in an Alcohol/Drug Rehabilitation Program
23 or the City of Gainesville Employee Assistance Program (EAP) or other
24 approved program as determined by the City, in lieu of being immediately
25 dismissed based upon such failure. However, allowing the Employee to
26 participate in such program in lieu of being dismissed is conditioned upon
27 the Employee's meeting the requirements set forth in paragraph X. D. of
28 this program. Furthermore, such an opportunity will not be available to an
29 employee who has previously participated in an Alcohol/Drug
30 Rehabilitation Program, the City's SAP/EAP, or other approved, similar
31 program, as an alternative to dismissal. Employees allowed the
32 rehabilitation opportunity described herein may still receive disciplinary
33 action short of dismissal in addition to required participation in the
34 rehabilitation program. Participation in a treatment program, be it entirely
35 voluntary or pursuant to this section, will not excuse additional violations of
36 this policy, work rule violations, improper conduct, or poor performance
37 and an employee may be disciplined or dismissed for such offenses or
38 failure to perform.
39
40 D. For purposes of this program, an employee is presumed to be under the
41 influence of drugs if a urine test or other authorized testing procedure
42 shows drug usage as set forth in the rules for the Agency for Health Care
43 Administration (Fla. Admin. Code R 59A-24)
44

- 1 E. Legal medication (over-the-counter) or prescription drugs may also affect
2 the safety of the employee, fellow employees or members of the public.
3 Therefore, any employee who is taking any over-the-counter medication or
4 prescription drug which might impair safety, performance, or any motor
5 functions shall advise his/her direct management representative of the
6 possible impairment before reporting to work under the influence of such
7 medication or drug. A failure to do so may result in disciplinary action. If
8 Management determines that the impairment does not pose a safety risk,
9 the employee will be permitted to work. Otherwise, management may
10 temporarily reassign the employee or place the employee in an
11 appropriate leave status during the period of impairment. Improper use of
12 "prescription drugs" is prohibited and may result in disciplinary action.
13 Improper use of prescription drugs includes, but is not limited to use of
14 multiple prescriptions of identical or interchangeable drugs, and/or
15 consumption of excessive quantities of an individual or therapeutically
16 interchangeable drugs, and/or inappropriately prolonged duration of
17 consumption of drugs, and/or consumption of prohibited drugs for other
18 than valid medical purposes. For the purpose of this Program,
19 consumption of any drug by the employee of more than the
20 manufacturer's maximum recommended daily dosage, or for a longer
21 period of time than recommended, or of any prohibited drug prescribed for
22 or intended for another individual, or for other than a valid medical
23 purpose shall be construed to constitute improper use. Excessive or
24 inappropriate prescribing by the prescriber or prescribers shall NOT
25 constitute a defense for the employee. Prescription medication shall be
26 kept in its original container if such medication is taken during working
27 hours or on City property.
28
- 29 F. Refusal to submit to or efforts to tamper with a drug test will subject the
30 employee to dismissal.
31
- 32 G. Except as provided herein, failure to pass a drug test will result in
33 disciplinary action, up to and including dismissal.
34
- 35 H. Violations of drug prohibitions can subject an employee to disciplinary
36 action up to and including dismissal. Dismissal for a first offense will be
37 considered an appropriate penalty absent mitigating circumstances.
38

39 **VII. TESTING**

40 **A. Testing of Applicants**

- 41
- 42 1. Prior to employment, applicants, whether for temporary or
43 permanent positions, will be tested for the presence of drugs.
44

- 1 2. Any job applicant who refuses to submit to drug testing, fails to
2 appear for testing, tampers with the test, or fails to pass the pre-
3 employment confirmatory drug test will not be hired, and unless
4 otherwise required by law, will be ineligible for hire for a period of at
5 least two years.
6

7 **B. Reasonable Suspicion Testing**
8

- 9 1. “Reasonable suspicion testing” means drug testing based on a
10 belief that an employee is using, or has used drugs in violation of
11 the City’s program, on the basis of specific, contemporaneous,
12 physical, behavioral or performance indicators of probable drug
13 use.
14

15 Two management representatives shall substantiate and concur in
16 the decision to test said employee, if feasible. Only one
17 management representative need witness the conduct. The
18 management representative(s) and witness(es) shall have received
19 training in the identification of actions, appearance, conduct or
20 odors which are indicative of the use of drugs or alcohol. If a
21 management representative believes reasonable suspicion exists,
22 the management representative shall report his or her findings and
23 observations to the next higher management representative having
24 administrative responsibility for the affected employee. Upon
25 approval by the next higher management representative, the
26 employee will be asked to immediately submit to a drug test(s) and
27 sign a form acknowledging his or her consent. When chemical
28 breath testing for alcohol is used, the test may be conducted
29 immediately at the work site or later at the collection site. Factors
30 which substantiate cause to test for breath or urine shall be
31 documented by the management representative on the Substance
32 Abuse Investigation Report Form which must be completed as soon
33 as practicable, but no later than twenty-four (24) hours after the
34 employee has been tested for drugs. A copy of this report will be
35 given to the employee upon request.
36

- 37 2. Each supervisor shall be responsible to determine if reasonable
38 suspicion exists to warrant drug testing and required to document in
39 writing the specific facts, symptoms, or observations which form the
40 basis for such reasonable suspicion. The documentation shall be
41 forwarded to the Fire Chief or designee to authorize the drug test of
42 an employee.
43

44 The Fire Chief or designee shall require an employee to undergo
45 drug testing if there is reasonable suspicion that the employee is in
46 violation of the City of Gainesville/IAFF Drug-Free Workplace

1 Program. Circumstances which constitute a basis for determining
2 "reasonable suspicion" may include but are not limited to:

- 3
4 a. A Pattern of Abnormal or Erratic Behavior - This includes but
5 is not limited to a single, unexplainable incident of serious
6 abnormal behavior or a pattern of behavior which is radically
7 different from what is normally displayed by the employee or
8 grossly differing from acceptable behavior in the workplace.
9
10 b. Information Provided by a Reliable and Credible Source -
11 The first line supervisor or another supervisor/manager
12 receives information from a reliable and credible source as
13 determined by the Fire Chief that an employee is violating
14 the City of Gainesville/IAFF Drug-Free Workplace Program.
15
16 c. Direct Observation of Drug Use - The first line or another
17 supervisor/manager directly observes an employee using
18 drugs while the employee is on duty. Under these
19 circumstances, a request for drug testing is MANDATORY.
20
21 d. Presence of the Physical Symptoms of Drug Use - The
22 supervisor observes physical symptoms that could include
23 but are not limited to glassy or bloodshot eyes, slurred
24 speech, poor motor coordination, or slow or poor reflex
25 responses different from what is usually displayed by the
26 employee or what is generally associated with common
27 ailments such as colds, sinus, hay fever, diabetes, etc.
28

29 The following will be deemed reasonable suspicion and may
30 provide a sufficient basis for requesting a drug test at the direction
31 of the Fire Chief or designee:
32

- 33 e. Violent or Threatening Behavior - First Incident: If an
34 employee engages in unprovoked, unexplained, aggressive,
35 violent and/or threatening behavior against a fellow
36 employee or a citizen, the Department may request that the
37 employee submit to drug testing.
38
39 f. Violent or Threatening Behavior - Subsequent Incident:
40 Whether or not an employee has previously received formal
41 counseling or disciplinary action for unprovoked,
42 unexplained, aggressive, violent and or threatening behavior
43 against a fellow employee or a citizen, upon a second or
44 subsequent episode of similar behavior/conduct (within
45 twelve months), the Department shall request that the
46 employee undergo drug testing.

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- g. Absenteeism and/or Tardiness: If an employee has previously received a suspension action for absenteeism and/or tardiness, a continued poor record (within twelve months) that warrants a second or subsequent suspension action may result in a request for a drug test.
- h. Odor: Odor of cannabis or alcohol upon the person.
- i. Performance Related Accidents: Each employee whose performance either contributed to the accident or whose performance cannot be discounted as a contributing factor to the accident shall be drug tested for drugs. If there is the odor or evidence of alcohol, the employee shall also be tested for alcohol. The management representative having administrative responsibility for the employee involved in the accident shall ensure that a drug test is performed as soon as possible after the accident but no later than 32 hours after the accident. Post-accident testing may involve breath and urine. If testing is not initiated within 32 hours after the accident, testing will not be done and the management representative will document the reason for the delay.

Should evidence of alcohol be present, i.e., an odor of alcohol, open containers, or a statement from witness confirming alcohol consumption, the management representative must ensure testing is completed as soon as emergency medical care has been provided. If alcohol testing is not initiated within 8 hours after the accident, alcohol testing will not be done and the management representative must document the reason for the delay.

The following are examples of conditions that require accident related testing:

- (1) City employee operating a vehicle while on city business (either a city-owned or personal vehicle) and involved in an accident that results in a citation for a moving violation.
- (2) Any accident involving property damage (city or private) estimated to be greater than \$2,500, if the employee cannot be absolved of all blame.
- (3) Any accident involving death.

1 (4) Any accident involving injury requiring treatment at an
2 off-site (away from the scene of the accident) medical
3 facility other than Employee Health Services, if the
4 employee cannot be absolved of all blame. If the injury
5 is of such character as would have been treated at
6 Employee Health Services, but for the unavailability of
7 Employee Health Services, Management may waive
8 this requirement. "Unavailability" means occurring at a
9 time other than the hours of operation of Employee
10 Health Services or at such distance from Employee
11 Health Services as to render their use impractical.
12

13 **C. Random Testing**

- 14
- 15 1. Random drug testing will be performed utilizing urine.
 - 16
 - 17 2. All employees in the classification of Fire Driver-Operator will be
18 required to submit to drug testing on a random basis.
19
 - 20 3. For purposes of selection for testing, employees shall be identified
21 only by Social Security Numbers and the selection of employees
22 will be conducted through the use of a random number generator or
23 other neutral selection process.
24
 - 25 4. Upon notification by management representatives that a drug test is
26 required, the employee will immediately report to the test site as
27 designated by management, but in no event, later than 24 hours
28 after notification, and provide a specimen of his/her urine. If
29 chemical breath testing, for alcohol testing is used, the test may be
30 conducted immediately at the work site or later at the collection site.
31
 - 32 5. Random testing shall be at an annual rate of between twenty-five
33 percent (25%) and fifty percent (50%) of the average number of
34 positions for which testing is required. During the first 12 months of
35 this program, random drug testing: (1) will be spread reasonably
36 throughout the year; and (2) the total number of tests will be equal
37 to at least 25 percent (25%) of the employees subject to testing.
38

39 **D. Return to Duty Testing**

40
41 An Employee who does not pass a breath or urine drug test may not
42 return to work until meeting at least the following requirements:
43

- 44 1. The employee must pass a drug test administered under this
45 program.
46

- 1 2. The Substance Abuse Professional (SAP) must approve the
2 employee for return to work.
- 3
- 4 3. The employee must agree to participate in and successfully
5 complete any alcohol or drug evaluation, counseling or
6 rehabilitation program required by the City/Substance Abuse
7 Professional.
- 8
- 9 4. The employee must agree to submit to periodic, unannounced drug
10 tests for a period of up to 60 months, as designated by the SAP.

11

12 **E. Position Change Testing**

13

14 Employees moving to the classification of Fire Driver-Operator, as a result
15 of a formal personnel action, shall be required to successfully pass a urine
16 drug test within 48 hours of receiving notification that they have been
17 selected to fill the Fire Driver-Operator position.

18

19 **F. Follow-up Testing**

20

21 If an employee, in the course of employment, enters an employee
22 assistance program for drug related problems or a drug rehabilitation
23 program, the employee must submit to a drug test as a follow-up to such
24 program unless such requirement is waived by the City in those cases
25 where the employee voluntarily entered the program. Entrance to a
26 program as a condition of continued employment or when the employee is
27 otherwise faced with the prospect of immediate disciplinary action based
28 upon problems associated with substance abuse shall not be considered
29 voluntary. If follow-up testing is required, it shall be conducted at least
30 once a year for a two-year period after completion of the program.
31 Advance notice of such follow-up testing must not be given to the
32 employee to be tested. Testing undertaken after referral to the SAP as a
33 result of a first violation of the City's Drug Free Workplace Program, Article
34 X, shall satisfy the requirements for follow-up testing.

35

36 **G. Routine Fitness for Duty**

37

38 An employee shall submit to a drug test if the test is conducted as part of
39 a routinely scheduled employee fitness-for-duty medical examination that
40 is required for all members of an employment classification or group.

41

42 **H. Refusal to Test**

43

44 Employees who refuse to submit to a breath or urine test administered in
45 accordance with this program forfeit their eligibility for all workers'
46 compensation medical and indemnity benefits and will be subject to

1 dismissal. Employees who refuse to submit to a chemical breath test or
2 other mechanism determined by management to be reliable will be subject
3 to dismissal.
4

5 **VIII. TESTING PROCEDURE**

6 **A. Tested Substances**

7
8 The City may test for any or all of the following drugs:
9

- 10 Alcohol
- 11 Amphetamines (Binhetamine, Desoxyn, Dexedrine)
- 12 Cannabinoids (i.e., marijuana, hashish)
- 13 Cocaine
- 14 Phencyclidine (PCP)
- 15 Methaqualone (Quaalude, Parest, Sopor)
- 16 Opiates
- 17 Barbiturates (Phenobarbital, Tuinal, Amytal)
- 18 Benzodiazophines (Ativan, Azene, Clonopin, Dalmane, Diazepam,
- 19 Halcion, Librium, Poxipam, Restoril, Serax, Tranxene, Valium, Vertron,
- 20 Xanax)
- 21 Methadone (Dolophine, Methadose)
- 22 Propoxyphene (Darvocet, Darvon N, Dolene)

23
24 **B. Designated Laboratory**

25
26 Because of the potential adverse consequences of positive test results on
27 employees, the City will employ a very accurate testing program.
28 Specimen samples will be analyzed by a highly qualified, independent
29 laboratory which has been selected by the City and certified by the
30 appropriate regulatory agency. The name and address of the certified
31 laboratory currently used by the City is on file with Employee Health
32 Services.
33

34 **C. Notification of Prescription Drug Use**

35
36 Applicants and employees will be given an opportunity prior to and after
37 testing to, on a confidential basis, provide any information they consider
38 relevant to the test including listing all drugs they have taken within the
39 immediately preceding 30-day period, including prescribed drugs and to
40 explain the circumstances of the use of those drugs in writing or other
41 relevant medical information. This information will be furnished to the
42 Medical Review Officer (MRO) in the event of a positive confirmed result.

43 **D. Testing of Injured Employees**
44

1 An employee injured at work and required to be tested will be taken to a
2 medical facility for immediate treatment of injury. If the injured employee
3 is not at a designated collection site, the employee will be transported to
4 one as soon as it is medically feasible and specimens will be obtained. If
5 it is not medically feasible to move the injured employee, specimens will
6 be obtained at the treating facility under the procedures set forth in this
7 program and transported to an approved testing laboratory. No specimen
8 will be taken prior to the administration of emergency medical care. An
9 injured employee must authorize release to the City the result of any tests
10 conducted for the purpose of showing the presence of alcohol or drugs.

11
12 **E. Body Specimens**

13
14 Urine will be used for the initial test for all drugs except alcohol and for the
15 confirmation of all drugs except alcohol. Breath will be used for the initial
16 and confirmation tests for alcohol. Sufficient volume of specimens shall
17 be obtained so as to provide for the necessary number of samples as may
18 be required, depending upon the number of required procedures.
19 Chemical breath testing methods will be utilized in connection with
20 justifying further alcohol tests in instances involving reasonable suspicion
21 testing under this program. In the case of injured employees, the
22 physician will have the discretion to determine to not require a breath
23 sample if such would threaten the health of the injured employee or if the
24 employee has a medical condition unrelated to the accident which may
25 preclude the employee from providing sufficient breath for a testing
26 specimen. Under these circumstances, no inference or presumption of
27 intoxication or impairment will be made for the purposes of § 440.101-
28 .102, but discipline for violation of the Program may be taken based upon
29 observable conduct or conditions and/or the result of other tests, if any.

30
31 **F. Cost of Testing**

32
33 The City will pay the cost of initial and confirmation drug tests, which it
34 requires of employees and job applicants. An employee or job applicant
35 will pay the cost of any additional drug tests not required by the City. In
36 the event that the City requires the employee's presence at the collection
37 site outside normal working hours as part of the testing process and the
38 employee passes the drug/alcohol test, such required time outside after
39 normal working hours shall be considered actual time worked for the
40 purpose of Section 41.4 of the IAFF labor agreement, if applicable.

41
42 **G. Collection Site, Work Site**

- 43
44 1. The City will utilize a collection site designated by an approved
45 laboratory which has all necessary personnel, materials,
46 equipment, facilities, and supervision to provide for the collections,

1 security, chain of custody procedures, temporary storage and
2 shipping or transportation of urine specimens to an approved drug
3 testing laboratory. The City may also utilize a medical facility as a
4 collection site that meets the applicable requirements.

5
6 2. The City may require that an employee take a chemical breath test
7 at the Work Site or other City facility.

8
9 3. Security of the collection site, chain of custody procedures, privacy
10 of the individual, collection control, integrity and identity of the
11 specimen and transportation of the specimen to the laboratory as
12 applicable will meet state or federal rules and guidelines. Florida
13 Agency for Health Care Administration's CHAIN OF CUSTODY
14 form as amended from time to time will be used for each employee
15 or job applicant whose blood or urine is tested.

16
17 **H. Collection Site, Work Site, Personnel**

18
19 A specimen for a drug test will be taken or collected by:

20
21 1. A physician, a physician's assistant, a registered professional
22 nurse, a licensed practical nurse, a nurse practitioner, or a certified
23 paramedic who is present at the scene of the accident for the
24 purpose of rendering emergency service or treatment or a qualified
25 breath alcohol technician as defined in CFR Part 40; or

26
27 2. A qualified person employed by a licensed laboratory who has the
28 necessary training and skills for the assigned tasks as described in
29 §440.102 (9) Fla. Stat.

30
31 In the case of a chemical breath test, utilizing evidential breath test
32 devices, a technician licensed pursuant to Fla. admin Code R 59A-24, and
33 or qualified alcohol technician as defined in 49 CFR Part 40.

34
35 **I. Testing Laboratory**

36
37 1. The laboratory used to analyze initial or confirmation breath or urine
38 specimens will be licensed or certified by the appropriate regulatory
39 agencies to perform such tests. The Agency for Health Care
40 Administration has published Drug-Free Workplace Standards
41 (Florida Administrative Code, R59A-24) which shall be followed by
42 laboratories and employers for testing procedures required under §
43 440.101-.102, Fla. Stat.

44
45 2. All laboratory security, chain of custody, transporting and receiving
46 of specimens, specimen processing, retesting, storage of

1 specimens, instrument calibration and reporting of results will be in
2 accordance with applicable state or federal laws and rules
3 established by HCA or the U.S. Department of Transportation; to
4 the extent the above information is readily reproducible by the lab
5 and not confidential, such will be forwarded to the appropriate
6 certified bargaining unit representative upon his/her request and
7 payment for reproduction cost.
8

- 9 3. The laboratory or Medical Review Officer will provide assistance to
10 the employee or job applicant for the purpose of interpreting any
11 positive confirmed test results.
12

13 **J. Initial Tests Used for Implementing § 440.101-.102, Fla., Stat.**

14 Initial tests will use an immunoassay except that the test for alcohol will be
15 chemical breath testing as described in 49 CFR, Part 40¹. The following
16 cutoff levels will be used when screening specimens to determine whether
17 they are positive or negative for these drugs or metabolites. All levels
18 equal to or exceeding the following will be reported as positive:
19

20	Alcohol concentration	0.04 %
21	Amphetamines	1000ng/ml
22	Cannabinoids	50ng/ml
23	Cocaine	300ng/ml
24	Phencyclidine	25ng/ml
25	Methaqualone	300ng/ml
26	Opiates	300ng/ml
27	Barbiturates	300ng/ml
28	Benzodiazepines	300ng/ml
29	Synthetic Narcotics:	
30	Methadone	300ng/ml
31	Propoxyphene	300ng/ml

32
33 **K. Confirmation Tests Used for Implementing § 440.101-.102, Fla. Stat.**

34
35 All breath and urine specimens identified as positive on the initial test will
36 be confirmed using gas chromatography/mass spectrometry (GC/MS) or
37 an equivalent or more accurate scientifically accepted method approved
38 by the HCA, except that alcohol will be confirmed using gas
39 chromatography. All confirmation will be done by quantitative analysis.
40 Concentrations, which exceed the linear region of the standard curve, will
41 be documented in the laboratory and recorded as "greater than highest
42 standard curve value". The following confirmation cutoff levels² will be
43 used when analyzing specimens to determine whether they are positive or

¹ These results are reported only to the appropriate manager who then determines if further testing under this program is warranted.

² Cutoff levels used are the same as those found in Florida Administrative Code R 59A-24.

negative for these drug metabolites. All levels equal to or exceeding the following will be reported as positive:

Alcohol concentration	0.04 %
Amphetamines	500ng/ml
Cannabinoids	15ng/ml
Cocaine	150ng/ml
Phencyclidine	25ng/ml
Methaqualone	150ng/ml
Opiates	300ng/ml
Barbiturates	150ng/ml
Benzodiazepines	150ng/ml
Synthetic Narcotics:	
Methadone	150ng/ml
Propoxyphene	150ng/ml

IX. TEST RESULTS (Blood and Urine)

A. Reporting Results.

1. The laboratory shall disclose to the Medical Review Officer (MRO) a written positive confirmed test result report within seven (7) working days after receipt of the sample. The laboratory should report all test results (both positive and negative) to the MRO within seven (7) working days after receipt of the specimen at the laboratory. The name and address of the current MRO is on file with Employee Health Services. The MRO is employed by the City and is not an employee of the drug-testing laboratory.
2. The laboratory will report as negative all specimens which are negative on the initial test or negative on the confirmation test. Only specimens confirmed positive on the confirmation test will be reported positive for a specific drug.
3. The laboratory will transmit results in a timely manner designed to ensure confidentiality of the information. The laboratory and MRO will ensure the security of the data transmission and restrict access to any data transmission, storage and retrieval system.
4. As provided in Fla. Admin. Code R 59-24, the MRO will verify that positive and negative test results were properly analyzed and handled according to HCA rules. The MRO may require a re-test. The MRO will have knowledge of substance abuse disorders and shall also be knowledgeable in the medical use of prescription drugs and in the pharmacology and toxicology of illicit drugs. The MRO shall evaluate the drug test result(s) reported by the lab,

1 verifying by checking the chain of custody form that the specimen
2 was collected, transported and analyzed under proper procedures
3 and, determine if any alternative medical explanations caused a
4 positive test result. This determination by the MRO may include
5 conducting a medical interview with the tested individual, review of
6 the individual(s) medical history or the review of any other relevant
7 bio-medical factors. The MRO shall also review all medical records
8 made available by the tested individual. The MRO may request the
9 laboratory to provide quantification of test results.

10
11 5. Within seven (7) days of receipt of the test results, the MRO will (1)
12 notify the Employee Health Services of negative results, or (2)
13 contact the employee or job applicant regarding a confirmed
14 positive test result and make such inquire as to enable the MRO to
15 determine whether prescription or over-the-counter medication
16 could have caused the positive test results. In this later case, the
17 MRO will follow the procedure set forth in either the HCA or D.O.T.
18 rules for providing the employee or job applicant the opportunity to
19 present relevant information regarding the test results. After
20 following the appropriate procedures, the MRO will notify the City in
21 writing of any verified test results. If the MRO after making and
22 documenting all reasonable efforts is unable to contact the
23 employee or job applicant to discuss positive test results, the MRO
24 will contact a designated management official to arrange for the
25 employee or applicant to contact the MRO. The MRO may verify a
26 positive test without having communicated to the employee or
27 applicant about the results of the test, if (1) the employee or
28 applicant declines the opportunity, or (2) within two days after
29 contacting the designated management official the employee or
30 applicant has not contacted the MRO. Further, employees or
31 applicants must cooperate fully with the MRO. Failure to meet with
32 the MRO upon his or her request or failure to promptly provide
33 requested information will result in an applicant not being hired and
34 an employee immediately being placed upon suspension without
35 pay and may result in discharge.

36
37 6. Within five (5) calendar days after the City receives a confirmed
38 positive test result from the MRO, the City will notify the employee
39 or job applicant in writing of such test results, the consequences of
40 such results, and the options available to the employee or job
41 applicant, including the right to file an administrative or legal
42 challenge. Notification shall be mailed certified or hand delivered.
43 Hand delivery is the preferred method of providing notice to
44 employees. Mailed notification shall be deemed received by the
45 employee or applicant when signed for, or seven (7) calendar days
46 after mailing, whichever occurs first.

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- 7. The Employee Health Services will, upon request, provide to the employee or job applicant a copy of the test results (positive or negative).

- 8. Unless otherwise instructed by the City in writing, all written records pertaining to a given specimen will be retained by the drug testing laboratory for a minimum of two (2) years. The drug testing laboratory shall retain (in properly secured refrigerated or frozen storage) for a minimum period of 210 days, all confirmed positive specimens. Within this 210-day period the City, employee, job applicant, MRO or HCA may request in writing that the laboratory retain the specimen for an additional period of time. If no such request, or notice of challenge is received (see paragraph IX(B)(3) below), the laboratory may discard the specimen after 210 days of storage.

B. Challenges to Test Results

- 1. Within five (5) working days (Monday thru Friday, 0800 – 1700, except observed/designated holidays) after receiving notice of a positive, confirmed and verified test result from the City, the employee or job applicant may submit information to the City explaining or contesting the test results and why the results do not constitute a violation of this program. The employee or job applicant will be notified in writing if the explanation or challenge is unsatisfactory to the City. This written explanation will be given to the employee or job applicant within fifteen (15) days of receipt of the explanation or challenge, and will include why the employee’s or job applicant’s explanation is unsatisfactory, along with the report of positive results. All such documentation will be kept confidential and will be retained for at least one (1) year.

- 2. Employees may challenge employment decisions made pursuant to this program as may be authorized by the City personnel policy or IAFF collective bargaining agreement.

- 3. When an employee or job applicant undertakes an administrative or legal challenge to the test results, it shall be the employee’s or job applicant’s responsibility to notify the City through its Human Resources Director and the laboratory, in writing, or such challenge and such notice shall include reference to the chain of custody specimen identification number. After such notification, the sample shall be retained by the laboratory until final disposition of the case or administrative appeal.

- 1 4. There shall be written procedures for the action to be taken when
2 systems are out of acceptable limits or errors are detected in
3 accordance with 49 CFR, Part 40.
4

5 **C. Employee/Applicant Protection**
6

- 7 1. During the 180-day period after the employee's or applicant's
8 receipt of the City's written notification of a positive test result, the
9 employee or applicant may request that the City have a portion of
10 the specimen retested, at the employee's or applicant's expense.
11 The retesting must be done at another HCA-licensed laboratory.
12 The second laboratory must test at equal or greater sensitivity for
13 the drug in question as the first laboratory. The first laboratory
14 which performed the test for the City will be responsible for the
15 transfer of the portion of the specimen to be retested, and for the
16 integrity of the chain of custody for such transfer.
17
18 2. The drug testing laboratory will not disclose any information
19 concerning the health or mental condition of the tested employee or
20 job applicant.
21
22 3. The City will not request or receive from the testing facility any
23 information concerning the personal health, habit or condition of the
24 employee or job applicant including, but not limited to, the presence
25 or absence of HIV antibodies in a worker's body fluids.
26
27 4. The City will not dismiss, discipline, refuse to hire, discriminate
28 against, or request or require rehabilitation of an employee or job
29 applicant on the sole basis of a positive test result that has not
30 been verified by a confirmation test.
31
32 5. The City will not dismiss, discipline or discriminate against an
33 employee solely upon the employee's voluntarily seeking treatment,
34 while in the employ of the City, for a drug-related problem, if the
35 employee has not previously tested positive for drug use, entered
36 an employee assistance program for drug-related problems, or
37 entered an alcohol or drug rehabilitation program. This shall not
38 prevent follow-up testing as required by this program.
39

40 **X. EMPLOYEE ASSISTANCE PROGRAM (EAP)**
41

- 42 A. The City regards its employees as its most important asset. Accordingly,
43 the City maintains an EAP which provides help to employees who suffer
44 from alcohol or drug abuse and other personal or emotional problems.
45 Employees with such problems should seek confidential assistance from

1 the EAP or other community resources before drug or alcohol problems
2 lead to disciplinary action. Employees may contact Employee Health
3 Services for the name of the City's EAP.
4

5 B. Information about a self-referred employee's contact with the EAP is
6 confidential and will not be disseminated without the employee's
7 permission. Further, an employee is not subject to discipline solely as a
8 result of a self referral for treatment.
9

10 C. However, use of the EAP or other community resources will not shield the
11 employee from appropriate disciplinary action for violations of the
12 City/IAFF Drug-Free Workplace Program if such violations come to the
13 City's attention through other means, including, but not limited to, reports
14 from employees or outsiders, direct observation, or drug testing.
15

16 D. Employees referred to the EAP as a result of a first violation of the
17 City/IAFF Drug-Free Workplace Program may, at the City's discretion, be
18 allowed to continue their employment with the City provided:
19

20 1. They contact the EAP and strictly adhere to all the terms of
21 treatment and counseling;
22

23 2. Immediately cease any and all abuse/use of alcohol/drugs; and
24

25 3. Consent in writing to periodic unannounced testing for a period of
26 up to 60 months after returning to work or completion of any
27 rehabilitation program, whichever is later.
28

29 4. Pass all drug test(s) administered under this program.
30

31 5. The employee executes and abides by an agreement describing
32 the required conditions.
33

34 E. Participation in any evaluation, treatment, or counseling program will be at
35 the employee's expense unless participation in the particular program is
36 required by the City, or unless the employee is entitled to such benefits
37 under the terms of the City's group health plan or by other available
38 benefits.
39

40 **XI. INVESTIGATION**

41 A. To ensure that illegal drugs and alcohol do not enter or affect the
42 workplace, the City reserves the right to undertake reasonable searches of
43 all vehicles, containers, lockers, or other items on City property in
44

1 furtherance of this program. Individuals may be requested to display
2 personal property for visual inspection.

3
4 B. Searches for the purpose described herein will be conducted only where
5 the City has reasonable suspicion that the employee has violated the
6 City/IAFF Drug-Free Workplace Program, and that evidence of such
7 misconduct may be found during the search.

8
9 C. Preventing a premises/vehicle search or refusing to display personal
10 property for visual inspection will be grounds for dismissal and/or denial of
11 access to City premises.

12
13 D. Searches of an employee's personal property will take place only in the
14 employee's presence. All searches under this program will occur with the
15 utmost discretion and consideration for the employee involved.

16
17 E. Individuals may be required to empty their pockets, but under no
18 circumstances will an employee be required to remove articles of clothing
19 or be physically searched except by law enforcement personnel having
20 lawful authority to do so.

21
22 F. Because the City's primary concern is for the safety of its employees, the
23 public and their working environment, the City will not normally seek
24 prosecution in matters involving mere possession of illegal substances
25 discovered solely as a result of search under this section. However, the
26 City will turn over all confiscated drugs and drug paraphernalia to the
27 proper law enforcement authorities. Further, the City reserves the right to
28 cooperate with or enlist the services of proper law enforcement authorities
29 in the course of any investigation.
30

31 **XII. ARREST FOR DRUG-RELATED CRIME**

32
33 A. As a condition of employment, each employee obligates himself or herself
34 to notify his or her appropriate management representative of the arrest
35 for any alleged violation of or conviction under any criminal drug statute,
36 including but not limited to, offenses described in Section 316.193,
37 Chapter 859 and Chapter 893, Fla. Stat. (1991). Except for the more
38 immediate notice required under Article (V)(I) of this program, the
39 employee shall give the required notice within 48 hours of such event.
40 Failure to notify will result in dismissal.

41 B. Arrests:
42
43
44 If an employee is arrested on a charge of commission of a drug-related
45 crime, the City will perform a preliminary investigation of all of the facts

1 and circumstances surrounding the alleged offense, and City officials may
2 utilize the drug-testing procedures in accordance with this program. In
3 most cases, the arrest for a drug-related crime, except off-duty alcohol
4 use, will constitute reasonable suspicion of drug use under this program.
5 However, information on drug test results shall not be released or used in
6 any criminal proceeding against the employee. Information released
7 contrary to this section shall be inadmissible as evidence in any such
8 criminal proceeding. In conducting its own investigation the City shall use
9 the following procedures:

10
11 During the preliminary investigation, an employee may be placed on leave
12 with pay, if applicable, or removed from safety sensitive or "special risk"
13 assignments/positions. After the preliminary investigation is completed,
14 but in no event later than 15 days after the employee's department head
15 learns of the arrest, normal personnel procedures shall be implemented.
16

17 **XIII. CONFIDENTIALITY**

18
19 1. All information, interviews, reports, statements, memoranda and drug test results,
20 written or otherwise, received by the City as a part of this drug testing program
21 are confidential communications. Unless required by state or federal laws, rules
22 or regulations, the City will not release such information without a written consent
23 form signed voluntarily by the person tested, except when consulting with legal
24 counsel in connection with action brought under or related to § 440.101-.102, or
25 when the information is relevant to the City's defense in a civil or administrative
26 matter.

27
28 The provisions of §119.07 to the contrary notwithstanding:

29
30 A. All information, interviews, reports, statements, memoranda, and drug test
31 results, written or otherwise received or produced as a result of a drug
32 testing program are confidential communications and may not be used or
33 received in evidence, obtained in discovery, or disclosed in any public or
34 private proceedings, except in accordance with this section or in determining
35 compensability under Chapter 440 Florida Statutes.

36
37 B. Employers, laboratories, employees assistance programs, drug and alcohol
38 rehabilitation programs, and their agents who receive or have access to
39 information concerning drug test results shall keep all information
40 confidential. Release of such information under any other circumstances
41 shall be solely pursuant to written consent form signed voluntarily by the
42 person tested, unless such release is compelled by a hearing officer or a
43 court of competent jurisdiction pursuant to an appeal taken under this
44 section, or unless deemed appropriate by a professional or occupational

1 licensing board in a related disciplinary proceeding. The consent form must
2 contain, at a minimum:

- 3
- 4 1. The name of the person who is authorized to obtain the information.
 - 5
 - 6 2. The purpose of the disclosure.
 - 7
 - 8 3. The precise information to be disclosed.
 - 9
 - 10 4. The duration of the consent.
 - 11
 - 12 5. The signature of the person authorizing release of the information.
 - 13

14 C. Information on drug test results shall not be released or used in any criminal
15 proceedings against the employee or job applicant. Information released
16 contrary to this section shall be inadmissible as evidence in any such
17 criminal proceedings.

18

19 D. Nothing herein shall be construed to prohibit the employer, agent or the
20 employer, or laboratory conducting a drug test from having access to
21 employee drug test information when consulting with legal counsel in
22 connection with actions brought under or related to this section or when the
23 information is relevant to its defense in a civil or administrative matter.
24

25 **XIV. RECORDS AND TRAINING**

26 A. Resource File

27

28 The City will maintain a current resource file of providers of employee
29 assistance including alcohol and drug abuse programs, mental health
30 providers, and various other persons, entities or organizations designed to
31 assist employees with personal or behavioral problems. The City will
32 inform employees and new hires about various employee assistance
33 programs that the employer may have available. The information shall be
34 made available at a reasonable time convenient to the City in a manner
35 that permits discreet review by the employee. The City will provide the
36 names, addresses, and telephone numbers of employee assistance
37 programs and local alcohol and drug rehabilitation programs to employees
38 and applicants.

39 B. Individual Test Results

- 40
- 41 1. The MRO shall be the sole custodian of individual positive test
42 results.
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2. The MRO shall retain the reports of individual positive test results for a period of two (2) years.
 3. The City shall keep confidential and retain for at least one (1) year an employee's challenge or explanation of a positive test result, the City's response thereto, and the report of positive result.
 4. The City shall keep all negative test results for two (2) years.
- C. General Records of the City
1. Records which demonstrate that the collection process conforms to all appropriate state or federal regulations shall be kept for three (3) years.
 2. A record of the number of employees tested by type of test shall be kept for five (5) years.
 3. Records confirming that managers, supervisors and employees have been trained under this program shall be kept for three (3) years.
- D. Drug Training Program
1. The City shall establish and maintain a Drug Training Program. The Program shall, at a minimum, include the following:
 - a. A written statement on file and available for inspection at its Human Resources Department outlining the Program.
 - b. An educational and training component for all supervisory and managerial personnel which addresses drugs.
 2. The educational and training components described in D.1.b above shall include the following:
 - a. The effects and consequences of drug use on personal health, safety and work environment.
 - b. The manifestations and behavioral changes that may indicate drug use or abuse.
 - c. Documentation of training given to supervisory and management personnel.

1 All Code of Federal Regulations or State Statutes
2 addressed in this document are available for review in the
3 City of Gainesville's Human Resources Office.
4

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